

**NOTICE OF PUBLIC MEETING**

**November 17, 2011  
9:00 a.m.  
Hilton Glendale  
100 W. Glen Oaks Blvd.  
Glendale, CA 91202  
(818) 551-4014**

**AGENDA**

1. **OPEN SESSION – Call to Order & Establishment of a Quorum**  
Frederick Lerner, D.C. Chair  
Hugh Lubkin, D.C., Vice Chair  
Francesco Columbu, D.C., Secretary  
Jeffrey Steinhardt, D.C.  
Richard Tyler, D.C.
2. **Chair's Report**
3. **Approval of Minutes**  
September 15, 2011 Board Meeting
4. **Public Comment**
5. **Executive Officer's Report**
  - A. Administration
  - B. Budget
  - C. Licensing
  - D. Enforcement
6. **Ratification of Approved License Applications**
7. **Ratification of Approved Continuing Education Providers**
8. **Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**
9. **Recommendation to Waive Two Year Requirement to Restore a Cancelled License**
10. **Attorney General Billing**

11. **Authority Over Unlicensed/Non-Licensed Individuals Performing Chiropractic**
12. **Status of Department of Workers' Compensation's Qualified Medical Examiner Regulations**
13. **Discussion and Possible Action on the Board's Mission Statement**
14. **SB 541 – Policies and Procedures for the Selection and Use of Expert Consultants**
15. **Regulatory Hearing on the Proposed Language for Patient Records – California Code of Regulations, Title 16, Division 4, Article 1, Section 318(a)**
16. **Proposed Regulations**
  - A. Use of Laser
  - B. Petitions for Reinstatement (Fee)
  - C. Filing of Addresses – Section 303
  - D. Omnibus Consumer Protection
17. **Proposed Board Meeting Schedule for 2012**
18. **Public Comment**
19. **Future Agenda Items**
20. **Hearings Re: Petition for Reinstatement of Revoked License**
  - A. Waylon Moore
  - B. Bruce Figoten
21. **Closed Session**
  - A. Deliberation on Petitioner Hearings and Disciplinary Decisions Pursuant to California Government Code Section 11126(c)(3)
  - B. Pursuant to California Government Code Section 11126(e)
    - 1) Catherine Hayes v. Board of Chiropractic Examiners  
Sacramento County Superior Court, Case No. 34-2008-0000647
    - 2) Board of Chiropractic Examiners v. Carole M. Arbuckle  
Sacramento County Superior Court, Case No. 03AS00948
22. **OPEN SESSION: Announcements Regarding Closed Session**
23. **Adjournment**

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Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

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The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail [marlene.valencia@chiro.ca.gov](mailto:marlene.valencia@chiro.ca.gov) or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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**BOARD OF CHIROPRACTIC EXAMINERS  
PUBLIC SESSION MINUTES**

**September 15, 2011**

**State Capitol**

**First Floor, Senate Committee Room 112  
Sacramento, CA 95814**

**Board Members Present**

Frederick Lerner, D.C. Chair  
Hugh Lubkin, D.C., Vice Chair  
Jeffrey Steinhardt, D.C.  
Richard Tyler, D.C.

**Staff Present**

Robert Puleo, Executive Officer  
Spencer Walker, Senior Staff Counsel  
Sandra Walker, Staff Services Manager  
Dixie Van Allen, Associate Governmental Program Analyst  
Christina Bell, Associate Governmental Program Analyst  
Ray Delaney, Management Services Technician  
Valerie James, Office Technician

**Call to Order**

Dr. Lerner called the meeting to order at 9:05 a.m.

**Roll Call**

Dr. Tyler called the roll. All members, but Dr. Columbu were present.

**Chair's Report**

Dr. Lerner reported on recent activities relating to Board matters.

**Approval of Minutes**

July 21, 2011 Board Meeting

**MOTION: DR. STEINHARDT MOVED TO APPROVE THE MINUTES**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 4-0**

**MOTION CARRIED**

**Public Comment**

None

**Board Member Training on the Bagley-Keene Open Meeting Act and Other Relevant Laws**

Mr. Walker indicated that there were no items to report.

**Executive Officer's Report**

Mr. Puleo gave the Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement. Mr. Puleo also reported that the Board filled the Southern California Special Investigator position.

**Ratification of Approved License Applications**

**MOTION: DR. TYLER MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS**

**SECOND: DR. STEINHARDT SECONDED THE MOTION**

**VOTE: 4-0**

**MOTION CARRIED**

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

**Ratification of Approved Continuing Education Providers**

**MOTION: DR. STEINHARDT MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 4-0**

**MOTION CARRIED**

The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

**Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**

None

**Ratification to Waive Two Year Requirement to Restore a Cancelled License**

**MOTION: DR. STEINHARDT MOVED TO RATIFY THE RECOMMENDATION TO WAIVE THE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 4-0**

**MOTION CARRIED**

The Board ratified the attached list of approved cancellation restoration applicants incorporated herein (Attachment C).

**Attorney General Billing**

Mr. Puleo updated the Board on efforts to reduce attorney general expenditures. Mr. Puleo also informed the Board that the overall monthly average has gone down significantly from past fiscal years.

### **Discussion and Possible Action on the Board's Mission Statement**

Mr. Puleo addressed the Board regarding some public concerns with the current mission statement. He provided samples of mission statements from other health boards.

Dr. Lubkin and Dr. Steinhardt suggested this issue be addressed at the next Public Relations Committee meeting.

Bill Howe, from the California Chiropractic Association (CCA), came forward and recommended that the Board take a more positive approach in creating a new mission statement. Mr. Howe read a version of a mission statement for consideration and will provide a copy to the Executive Officer.

### **Discussion and Possible Action on the Board's Disciplinary Guidelines**

Dr. Charles Davis, from International Chiropractic Association of California (ICAC), came forward and suggested that the Board update the Disciplinary Guidelines.

Dr. Lubkin agreed with the suggestion due to recent law changes.

Sandra Walker, Board's Compliance Unit Manager, came forward and announced that a compliance unit staff member has been assigned to work on revising and updating the guidelines.

After further discussion and current implementation of regulatory changes, the Board decided to work on revising and updating the guidelines and have this topic addressed at the next Enforcement Committee meeting.

### **Purpose of the Continuing Education Committee**

The Board discussed the current policy and few concerns regarding the purpose of the Continuing Education Committee. The Board agreed to have this topic addressed at the next Continuing Education Committee meeting.

### **Legislative Update**

- A. AB 25 – Athletics: Concussions and Head Injuries  
Mr. Puleo announced that the bill is waiting to be signed by the Governor.
- B. AB 584 – Workers' Compensation Utilization Review  
Mr. Puleo announced that the bill is waiting to be signed by the Governor.
- C. SB541 – Expert Consultants  
Mr. Puleo announced that the bill is waiting to be signed by the Governor.

### **Regulatory Hearing on the Proposed Language for Omnibus Consumer Protection – California Code of Regulations (CCR), Title 16, Division 4, Article 1, Sections 303-390.9**

A regulatory hearing took place on the proposed language for the Omnibus Consumer Protection.

Bill Howe expressed CCA's support for the proposed regulation. He expressed concerns with the proposed language and provided various language changes.

Dr. Charles Davis stated ICAC's overall support of the regulation. He provided suggestions for changes to the proposed language.

Dr. Sherry McAllister shared Palmer College of Chiropractic West's concerns with the proposed language.

Debra Snow shared her support and addressed her concerns with the proposed language.

**Proposed Regulations**

A. Informed Consent

Dr. Lerner announced that the Informed Consent Regulation was approved by the Office of Administrative Law (OAL) and goes into effect October 7, 2011.

B. Use of Laser

Dr. Lerner announced that the proposed language has been revised and appears more thorough.

**MOTION: DR. LERNER MOVED TO APPROVE THE PROPOSED LANGUAGE.**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 4-0**

**MOTION: CARRIED**

The Board had a discussion regarding the proposed language.

Dr. Davis shared some concerns with the language and its reference to CCR, Title 16, Division 4, Section 302.

Dr. McAllister shared some concerns with the language.

Heidi Hannaman, representing Senator Huff's office, expressed the Senator's support for the proposed regulations.

Mr. Howe also shared some concerns with the language and clarification.

**MOTION: DR. LERNER MOVED TO AMEND HIS MOTION BY CHANGING THE LANGUAGE TO ADD "OR INDIRECT" IN PARAGRAPH (a) AFTER "DIRECT" AND ADD "INITIAL" IN PARAGRAPH (3) BETWEEN "THE" AND "USE."**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 4-0**

**MOTION: CARRIED**

C. Petitions for Reinstatement (Fee)

Mr. Puleo reported that this regulation was on hold pending the Omnibus Consumer Protection Regulation.

D. Filing of Addresses – Section 303

Mr. Puleo announced that the Board needs to wait for the Omnibus Consumer Protection Regulation to pass before going any further with this regulation.

E. Omnibus Consumer Protection

Dr. Lerner indicated that a hearing took place prior to this section.

**Public Comment**

None

**Future Agenda Items**

None

**Hearings Re: Petition for Reinstatement of Revoked License**

Administrative Law Judge Catherine B. Frink presided over and Supervising Deputy Attorney General Arthur Taggart appeared on behalf of the people of the State of California on the following hearing:

A. Dennis Nguyen

**Closed Session**

Following oral testimonies, the Board went into closed session for deliberation and determinations of petitioners.

**Adjournment**

Dr. Lerner adjourned the public meeting at 2:31p.m.

(ATTACHMENT A)

Approval By Ratification of Formerly Approved License Applications  
July 1, 2011 – August 31, 2011

Name (First, Middle, Last)			Date Issued	DC#
Anna	Katrina	Phillips	7/8/2011	32043
Hsiao-Hsien	Joseph	Chen	7/13/2011	32044
David	Bryce	Hanson	7/13/2011	32045
David	Y.	Ko	7/13/2011	32046
Brady	Christopher	Moore	7/13/2011	32047
Terrance	Addison	Ashton-Boyd	7/15/2011	32048
Kent	Walter	Hardenbrook	7/15/2011	32049
Joseph	David	Johnson	7/15/2011	32050
Aaron	Andrew	Kenna	7/15/2011	32051
Joo	Yong	Kim	7/15/2011	32052
Deborah	Charmaine	Buzby-Cope	7/21/2011	32053
Nathaniel		Ju	7/21/2011	32054
Barry	Alan	Roland	7/22/2011	32055
Sanaz	Khandani	Rouhani	7/22/2011	32056
Calen		Daniel	7/28/2011	32057
Juan	Carlos	Gutierrez	7/28/2011	32058
Timothy	Lee	Nicholl	8/1/2011	32059
Sara	DiNome	Teel	8/1/2011	32060
Devin		Young	8/1/2011	32061
Joel	Echern	Yeo	8/2/2011	32062
Israel	Jon	Perry	8/3/2011	32063
Shane	Robert	Seibert	8/3/2011	32064
William	Jeffrey	Boro	8/3/2011	32065
Nicholas	Charles	Braaten	8/3/2011	32066
Melody	Sheryl	Itliong	8/3/2011	32067
Byungsung		Kim	8/3/2011	32068
Stephen	Anthony	Krupey	8/3/2011	32069
Eugene	Jaemin	Lee	8/3/2011	32070
Michael	Stanley	Lewen	8/3/2011	32071
Meghan	Marie	Magner	8/3/2011	32072
Trisha	Lenore	Smith	8/9/2011	32073
Neel		Bulchandani	8/12/2011	32074
Renee	Elizabeth	Cauvin	8/12/2011	32075



Kevin	Robert	Culver	8/12/2011	32076
Jessica	Ding Waye	Lee	8/12/2011	32077
David	Mark	Radin	8/15/2011	32078
Michael	Joseph	Ruscio	8/15/2011	32079
Khoa	Dang	Tran	8/15/2011	32080
Kazuaki		Ogura	8/19/2011	32081
Enrique		Santana	8/19/2011	32082
Harmik		Torosian	8/19/2011	32083
Eric	Werner	Drazich	8/19/2011	32084
Erin	Marie	Flowers	8/19/2011	32085
Tira	Joy	Heartsong	8/19/2011	32086
Jacqueline	Raquel	Mendoza	8/19/2011	32087
Janae	Andrea	Smith	8/30/2011	32088

(ATTACHMENT B)  
Approval By Ratification Of Continuing Education Providers

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
1. Safety Works Medical Inc	06/25/2011
2. Launa R. Rapa, D.C.	06/25/2011
3. Ultimate Practice	06/25/2011
4. Panaxea International Inc.	06/25/2011

DRAFT

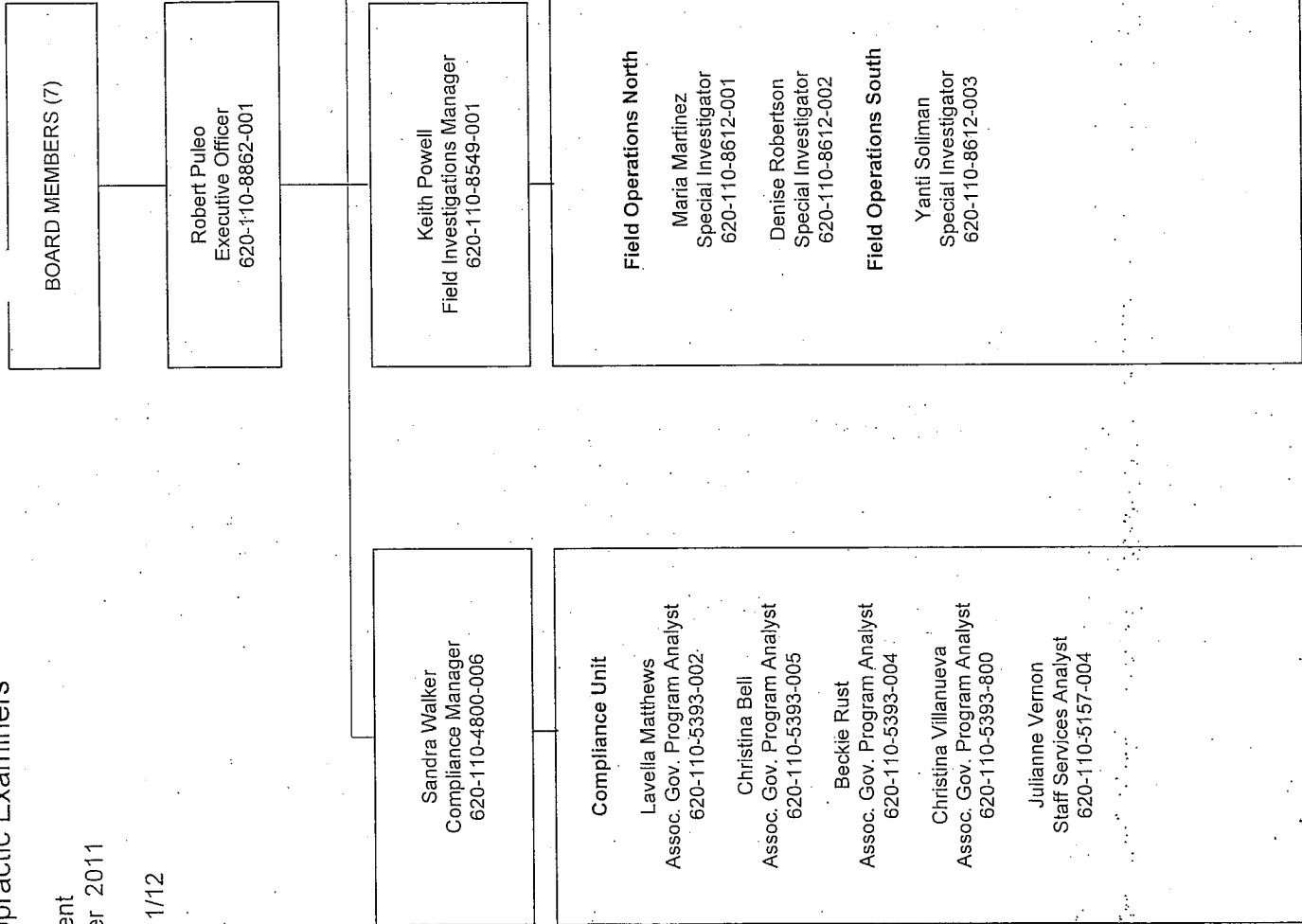
(ATTACHMENT C)  
Recommendation to Waive Two Year Requirement  
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Wallace, Nicole	26388	October 31, 2010

# State Board of Chiropractic Examiners

Current  
September 2011

FY 2011/12



Executive Officer

Rev. 9/8/11

# 0152 - Board of Chiropractic Examiners

## Analysis of Fund Condition

Prepared 10/11/11

(Dollars in Thousands)

	Actual 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14
<b>BEGINNING BALANCE</b>	\$ 3,125	\$ 2,567	\$ 2,016	\$ 1,953
Prior Year Adjustment	\$ 11	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,136	\$ 2,567	\$ 2,016	\$ 1,953
<b>REVENUES AND TRANSFERS</b>				
Revenues:				
125600 Other regulatory fees	\$ 120	\$ 128	\$ 128	\$ 128
125700 Other regulatory licenses and permits	\$ -	\$ -	\$ -	\$ -
125800 Renewal fees	\$ 2,635	\$ 2,852	\$ 3,398	\$ 3,398
125900 Delinquent fees	\$ 43	\$ 50	\$ 48	\$ 48
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 14	\$ 20	\$ 19	\$ 18
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 5	\$ 5	\$ 5	\$ 5
161900 Other Revenue - Cost Recoveries*	\$ 50	\$ 50	\$ 50	\$ 50
164600 Fines and Forfeitures	\$ 21	\$ 21	\$ 21	\$ 21
Totals, Revenues	\$ 2,888	\$ 3,126	\$ 3,669	\$ 3,668
Transfers to Other Funds	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 2,888	\$ 3,126	\$ 3,669	\$ 3,668
Totals, Resources	\$ 6,024	\$ 5,693	\$ 5,685	\$ 5,621
<b>EXPENDITURES</b>				
Disbursements:				
0840 State Controller (State Operations)	\$ 2	\$ 3	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 2	\$ 15	\$ -	\$ -
8500 Program Expenditures (State Operations)	\$ 3,453	\$ 3,659	\$ 3,732	\$ 3,807
Total Disbursements	\$ 3,457	\$ 3,677	\$ 3,732	\$ 3,807
<b>FUND BALANCE</b>				
Reserve for economic uncertainties	\$ 2,567	\$ 2,016	\$ 1,953	\$ 1,814
Months in Reserve	8.4	6.5	6.2	5.6

### NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. ASSUMES INTEREST RATE AT 1%.
- C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

\*Budget Office has requested DGS to move cost recoveries to reimbursements (4/11/11)

**BOARD OF CHIROPRACTIC EXAMINERS  
LICENSE STATISTICAL DATA**

**FY 2010/11 – FY 2011/12 COMPARISON**

LICENSE TYPE	TOTAL LICENSES 11/1/2010	TOTAL LICENSES 11/1/2011	NET VARIANCE
CHIROPRACTOR	13,902	13,666	-236
SATELLITES	3,697	3,880	+183
CORPORATIONS	1,326	1,327	+1
REFERRALS	31	31	0
TOTALS	18,963	18,904	-59

**APPLICATIONS RECEIVED AND PROCESSED  
SEPTEMBER 1, 2011 – OCTOBER 31, 2011**

APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	38	42	0	0	124
RECIPROCAL	1	1	0	0	14
RESTORATION	40	36	0	0	9
CORPORATION	20	18	0	0	18

## Compliance Unit Statistics

<b>Fiscal Year</b>	<b>07/08</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>	<b>11/12*</b>
<b><u>Complaints</u></b>					
Received	644	655	519	497	142
Pending	824	410	203	137	161
Closed with Insufficient Evidence	107	206	136	96	25
Closed with No Violation	78	223	129	135	24
Closed with Merit	321	275	158	140	34
Letter of Admonishment	n/a	n/a	5	4	0
Citations and Fines Issued (Total Fine Amount)	28	41(\$19,200)	78(\$25,700)	47(\$12,700)	7(\$7,400)
<b><u>Accusations</u></b>					
Filed	13	64	73	68	10
Pending	73	105	117	130	115
Revoked	8	10	18	17	4
Revocation Stayed: Probation	10	4	20	26	5
Revocation Stayed: Suspension and Probation	10	7	8	9	5
Suspension	0	0	0	0	0
Suspension Stayed: Probation	0	0	1	0	0
Suspension and Probation	0	2	0	0	0
Voluntary Surrender of License	2	2	7	9	3
Dismissed/Withdrawn	3	5	18	10	6
<b><u>Statement of Issues</u></b>					
Filed	7	3	3	4	1
Denied	0	1	0	0	1
Probationary License	7	4	7	3	2
Withdrawn at Applicant's Request	1	0	0	0	0
Granted	0	0	0	1	0
<b><u>Petition for Reconsideration</u></b>					
Filed	0	1	3	0	1
Granted	0	0	0	0	0
Denied	0	1	2	0	0
<b><u>Petition for Reinstatement of License</u></b>					
Filed	15	13	9	7	3
Granted	12	4	4	2	
Denied	6	11	11	10	2
<b><u>Petition for Early Termination of Probation</u></b>					
Filed	6	6	6	4	6
Granted	1	6	1	2	8
Denied	1	2	2	4	6
<b><u>Petition for Modification of Probation</u></b>					
Filed	0	0	0	0	0
Granted	0	0	0	0	0
Denied	0	0	0	0	0
<b><u>Petition by Board to Revoke Probation</u></b>					
Filed	0	11	32	13	4
Revoked	0	3	7	2	5
<b><u>Probation Cases</u></b>					
Active	159	140	134	138	140

## **Violation Codes/Descriptions**

### **The Chiropractic Initiative Act of California (ACT):**

- 10 – Rules of Professional Conduct
- 15 – Noncompliance With and Violations of Act

### **California Code of Regulations (CCR):**

- 302(a) – Scope of Practice
- 303 – Filing of Addresses
- 304 – Discipline by Another State
- 308 – Display of License
- 311 – Advertisements
- 312 – Illegal Practice
- 316 – Responsibility for Conduct on Premises
- 317 – Unprofessional Conduct
- 318 – Chiropractic Patient Records/Accountable Billing
- 319 – Free or Discount Services
- 355 – Renewal and Restoration
- 360 – Continuing Education Audits
- 367.5 – Application, Review of Refusal to Approve (corporations)
- 367.7 – Name of Corporation

### **Business and Professions Code (BP):**

- 801 – Professional Reporting Requirements (malpractice settlements)
- 810 – Insurance Fraud
- 1051 – Apply for a Corporation with the Board
- 1054 – Name of Chiropractic Corporation

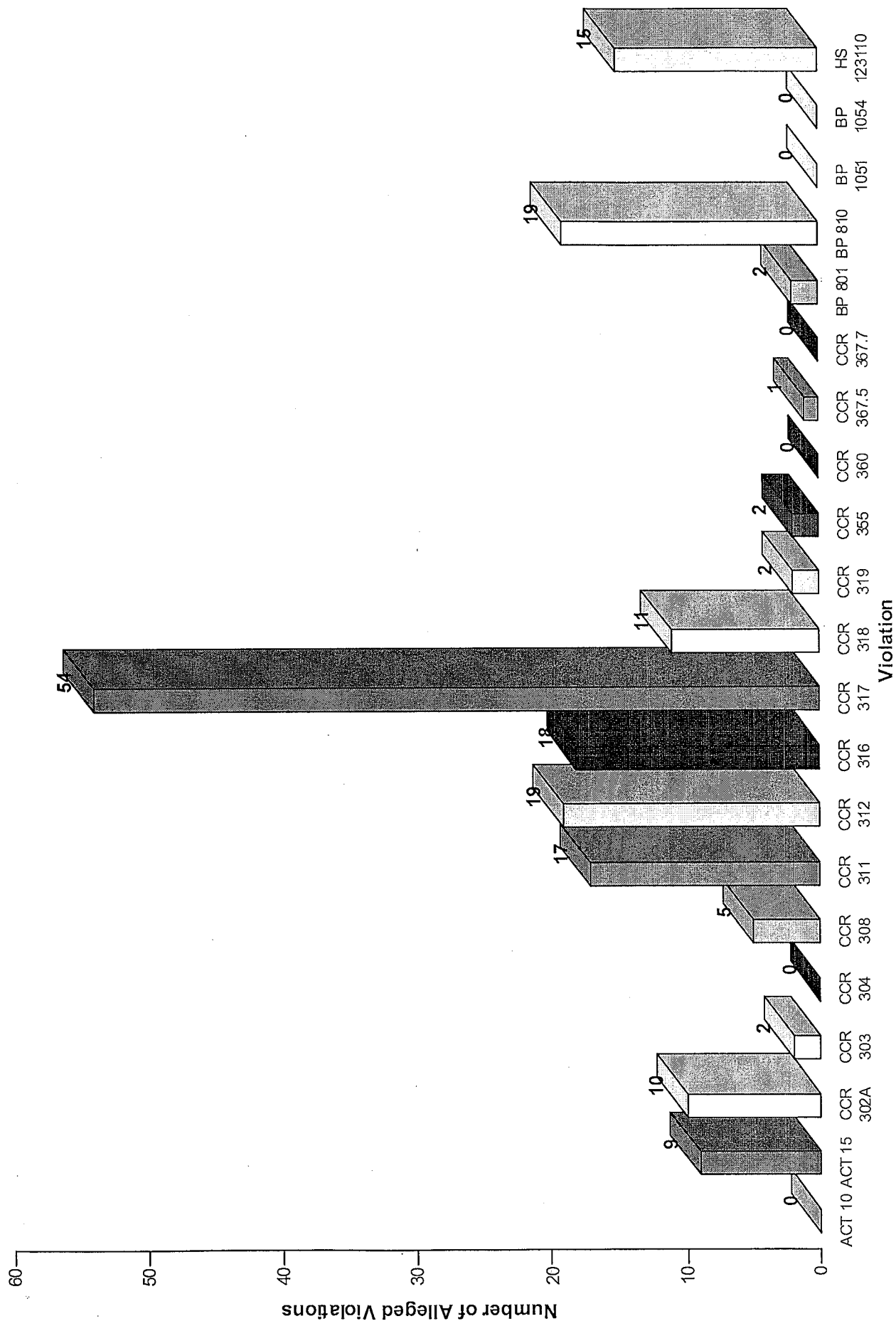
### **Health and Safety Code (HS):**

- 123110 – Patient Access to Health Records



# FISCAL YEAR 2012

July 1, 2011 - October 31, 2011  
 Total Number of Complaints Opened - 142  
 Total Number of Violations - 186  
 (A complaint may contain multiple violations)



## **Violation Codes/Descriptions**

### **California Code of Regulations (CCR) Section 317 – Unprofessional Conduct:**

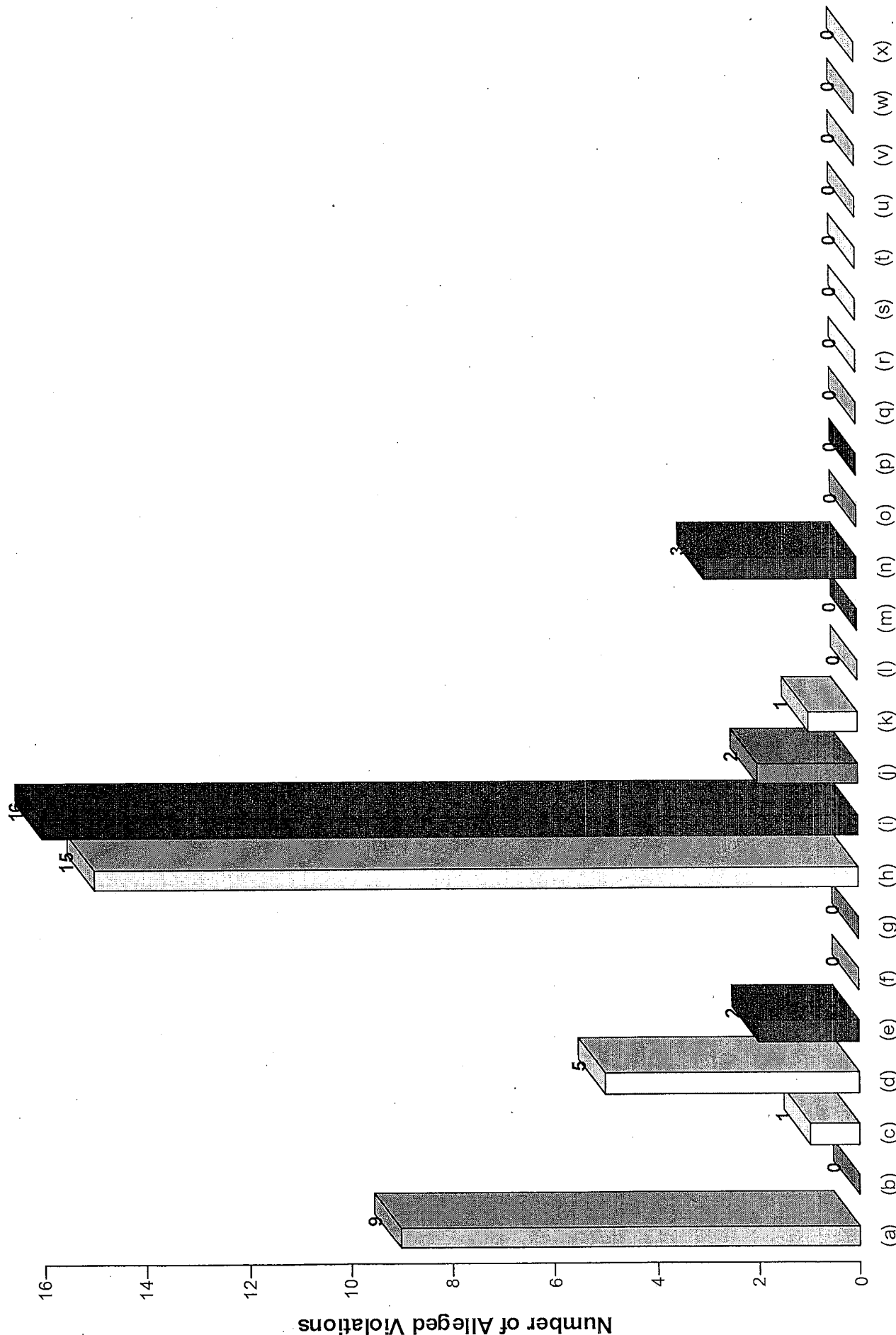
- (a) Gross Negligence
- (b) Repeated Negligent Acts
- (c) Incompetence
- (d) Excessive Treatment
- (e) Conduct Endangering Public
- (f) Administering to Oneself Drugs/Alcohol
- (g) Conviction of a Crime Related to Chiropractic Duties
- (h) Conviction of a Crime Involving Moral Turpitude/Physical Violence/etc.
- (i) Conviction of a Crime Involving Drugs or Alcohol
- (j) Dispensing Narcotics/Dangerous Drugs/etc.
- (k) Moral Turpitude/Corruption/etc
- (l) False Representation
- (m) Violation of the ACT/Regulations
- (n) False Statement Given in Connection with an Application for Licensure
- (o) Impersonating an Applicant
- (p) Illegal Advertising related to Violations of Section 17500 BP
- (q) Fraud/Misrepresentation
- (r) Unauthorized Disclosure of Patient Records
- (s) Employment/Use of Cappers or Steerers
- (t) Offer/Receive Compensation for Referral
- (u) Participate in an Illegal Referral Service
- (v) Waiving Deductible or Co-Pay
- (w) Fail to Refer Patient to Physician/Surgeon/etc.
- (x) Offer or Substitution of Spinal Manipulation for Vaccination

# **FISCAL YEAR 2012**

July 1, 2011 - October 31, 2011

Total Number of Complaints Opened Alleging Violation of CCR 317 - 54

(A complaint may contain multiple violations)



Violation: CCR 317 - Unprofessional Conduct

# **FISCAL YEAR 2012**

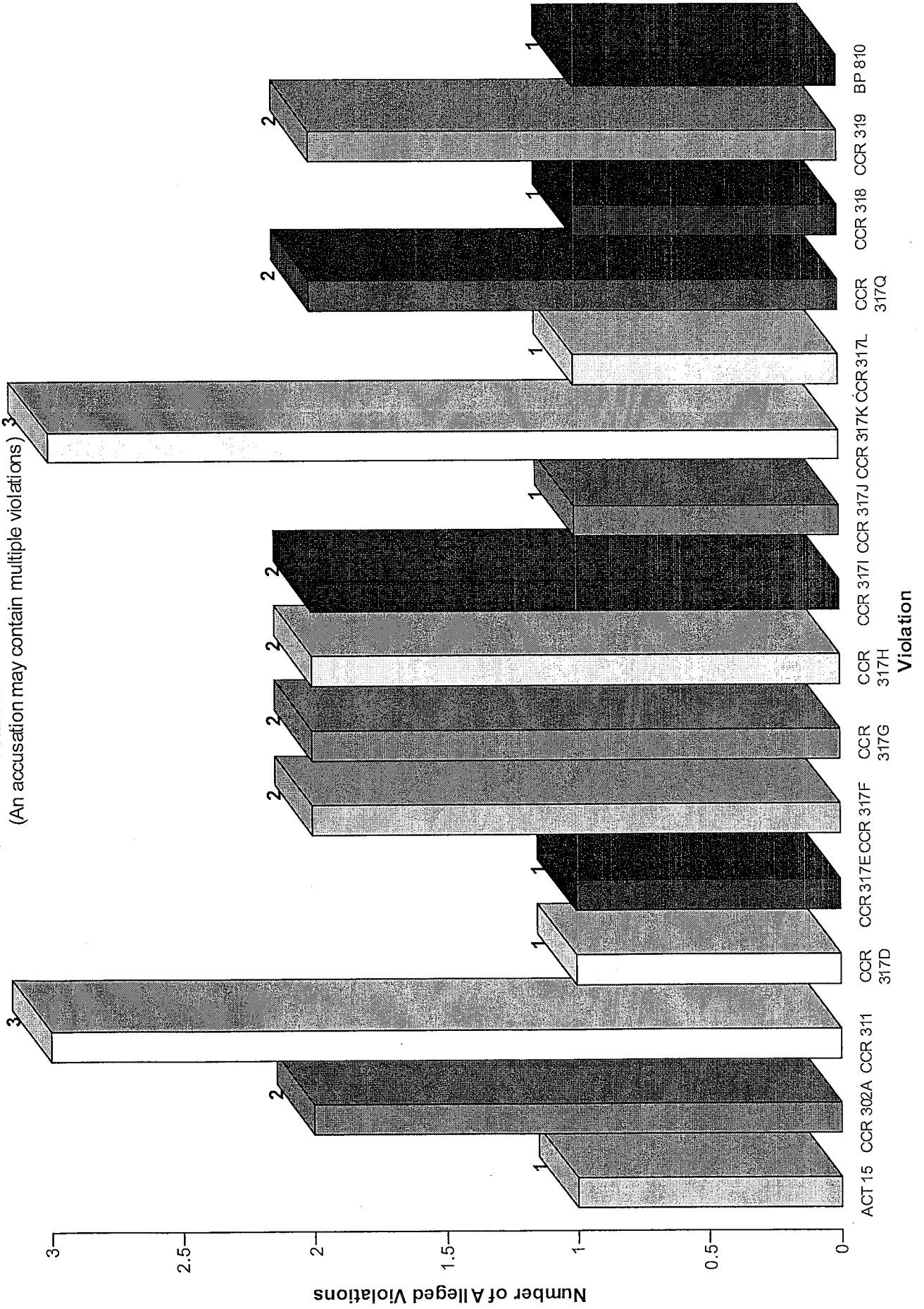
## **ACCUSATIONS FILED**

July 1, 2011 - October 31, 2011

Total Number of Accusations Filed - 10

Total Number of Violations - 27

(An accusation may contain multiple violations)



# MEMORANDUM



**Date:** November 3, 2011

**To:** Board Members

**From:** Robert Puleo  
Executive Officer

A handwritten signature in black ink, appearing to be "RP", written over the printed name "Robert Puleo".

**Subject:** Ratification of Formerly Approved Doctors of Chiropractic for Licensure

This is to request that the Board ratify the attached list of individuals as Doctors of Chiropractic at the November 17, 2011, public meeting.

Between September 1, 2011 and October 31, 2011, staff reviewed and confirmed that the applicants met all statutory and regulatory requirements.

If you have any questions or concerns, please contact me at your earliest opportunity.

Approval By Ratification of Formerly Approved License Applications  
September 1, 2011 – October 31, 2011

Name (First, Middle, Last)			Date Issued	DC#
Jacalyn	Renae	Amrine	9/1/2011	32089
Erik	William	Hanson	9/1/2011	32090
Annabeth		Macy	9/1/2011	32091
Mohsen		Moazami	9/1/2011	32092
Scott	Ray	Jurica	9/8/2011	32093
Andrea	Dione	Owens	9/12/2011	32094
Daniel	Ainsworth	Smith	9/12/2011	32095
Laara		Van Bryce	9/12/2011	32096
Michael	Jason	Goldman	9/13/2011	32097
Akiko		Kobayashi	9/13/2011	32098
Eric	Benjamin	Ruble	9/23/2011	32099
Jason	McCoy	Slade	9/23/2011	32100
Donald	Spangler	Pritt, Jr.	9/23/2011	32101
Eric	Tal	Bartlett	9/28/2011	32102
Samuel	Bernard	Rose	9/30/2011	32103
Aleksey		Zelenkovsky	9/30/2011	32104
Alexander	Lawrence	Brown	10/5/2011	32105
Stephen	James	Cain	10/5/2011	32106
Richard	Tyler	Dennis	10/5/2011	32107
Michael		Kaliko	10/5/2011	32108
Angela	Marie	Pogioli	10/7/2011	32109
Pejman		Pourarbab	10/7/2011	32110
The	Duc	Nguyen	10/11/2011	32111
Jason	James	Ackley	10/12/2011	32112
Denise	Marie	Britt	10/12/2011	32113
Jennifer	Elizabeth	Little	10/12/2011	32114
Mark	Anthony	Barraza	10/18/2011	32115
Roseann	Leah	Berg	10/18/2011	32116
James	Peter	Kunsman	10/18/2011	32117
Michael	Thomas	Lagueux III	10/18/2011	32118
Adam	Arthur	Meisenhelder	10/18/2011	32119
Brittany	Ann	Robinson	10/20/2011	32120
Horace	M	Samuels	10/20/2011	32121
Justin	Russell	Willcoxson	10/20/2011	32122
Rachelle	Marie	Willcoxson	10/20/2011	32123

Laura	Brittany	Wilson	10/20/2011	32124
Sandy	Marie	Baird	10/21/2011	32125
Brandon	Lee	Boothe	10/21/2011	32126
Nam	Hoai	Nguyen	10/25/2011	32127
Vu	Viet	Ninh	10/25/2011	32128
Brian	Richard	Baar	10/28/2011	32129
Michael	William	Bohrnsen	10/28/2011	32130
Mamerto	Agcaoili	Estepa Jr.	10/28/2011	32131

**MEMORANDUM**

**Date:** November 1, 2011

**To:** BOARD MEMBERS

**From:** Robert Puleo  
Executive Officer

**Subject:** Ratification of Formerly Approved Continuing Education Providers

This is to request that the Board ratify the continuing education providers at the scheduled board meeting on November 17, 2011.

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
1. <u>CMCS Management Inc.</u>	11/1/11
2. <u>Barton University</u>	11/1/11
3. <u>James W. Brantingham D.C.</u>	11/1/11
4. <u>Douglas M. Gillard, D.C.</u>	11/1/11
5. <u>Karl A. Giljum, D.C.</u>	11/1/11
6. <u>American Liberty University</u>	11/1/11
7. <u>Total Thermal Imaging Inc.</u>	11/1/11
8. <u>Zhen Sheng Fu</u>	11/1/11

If you have any questions or concerns, please contact me at your earliest opportunity.




# MEMORANDUM



**Date:** November 7, 2011

**To:** Board Members

**From:** Robert Puleo   
Executive Officer

**Subject:** Ratification of Denied License Applications of Doctors of Chiropractic

The Board of Chiropractic Examiners (Board) denies licensure to applicants who do not meet all statutory and regulatory requirements for a chiropractic license in California. An applicant has 60-days after the denial is issued to appeal the decision. If the applicant does not submit an appeal to the Board, the denial is upheld.

Between September 1, 2011 and October 31, 2011, staff reviewed and confirmed that applicants met all statutory and regulatory requirements for licensure. No denials of licensure were issued for this timeframe, there is no ratification necessary.

If you have any questions or concerns, please contact me at your earliest opportunity.

# MEMORANDUM



**Date:** November 7, 2011

**To:** Board Members

**From:** Robert Puleo  
Executive Officer

A handwritten signature in black ink, appearing to be "RP", written over the printed name "Robert Puleo".

**Subject:** Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License – Chiropractic Initiative Act, Section 10(c)

This is to recommend that the Board waive the two year restoration requirement of a cancelled license for the individuals named on the attached list at the November 17, 2011, public meeting.

Staff reviewed and confirmed that the applicants met all other regulatory requirements for restoration including sufficient continuing education hours.

If you have any questions or concerns, please contact me at your earliest opportunity.

Recommendation to Waive Two Year Requirement  
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Armatis, Michael	30574	July 31, 2011
Caron, Daniel	19402	July 31, 2011
McGarry, Lieschen	30227	March 31, 2010

As of Nov 5, 2011

## Average Hours and Fees Between Milestone Events

Client Code	Full Name											
03549	Chiropractic Examiners, Board of											
Average Number of Hours and Fees between Events	Fiscal Year: 2009/2010				Fiscal Year: 2010/2011				Current Fiscal Year			
Number of cases Received/Adjudicated during the fiscal year	(AC/RV)	4/2				5/4			0/0			
	(ACC)	73/44				54/36			22/18			
	(CIT)	4/0				2/2			1/1			
	(ISO)	1/0				2/0			0/0			
	(PSYC)	0/0				1/0			0/0			
	(REDU)	1/0				0/0			1/0			
	(REIN)	12/3				4/0			2/0			
Receipt of case to Pleading sent to Agency	(REVO)	19/6				3/8			4/3			
	(SOI)	6/6				5/4			1/2			
	Avg: Los Angeles (26)	19.58		\$2,867.44		Avg: Los Angeles (31)	13.10	\$2,146.17		Avg: Los Angeles (4)	13.50	\$2,257.50
	Avg: Sacramento (17)	17.47		\$2,839.00		Avg: Sacramento (4)	8.38	\$1,273.75		Avg: Sacramento (2)	11.75	\$1,997.50
	Avg: San Diego (21)	11.31		\$1,760.77		Avg: San Diego (23)	14.39	\$2,356.72		Avg: San Diego (3)	9.50	\$1,506.67
	Avg: San Francisco (16)	9.67		\$1,511.25		Avg: San Francisco (16)	13.56	\$2,211.88		Avg: San Francisco (5)	16.30	\$2,666.00
	Total Avg: (80)	15.01		\$2,302.85		Total Avg: (74)	13.35	\$2,179.10		Total Avg: (14)	13.39	\$2,205.36
Pleading sent to Agency to Hearing Date	Avg: Los Angeles (13)	24.30		\$4,096.05		Avg: Los Angeles (19)	28.50	\$4,802.50		Avg: Los Angeles (26)	27.43	\$4,628.71
	Avg: Sacramento (11)	54.97		\$8,973.06		Avg: Sacramento (11)	33.00	\$5,610.00		Avg: Sacramento (3)	5.12	\$871.25
	Avg: San Diego (14)	24.37		\$4,050.06		Avg: San Diego (11)	34.91	\$5,890.23		Avg: San Diego (11)	20.77	\$3,484.77
	Avg: San Francisco (10)	14.28		\$2,248.78		Avg: San Francisco (9)	16.58	\$2,708.06		Avg: San Francisco (6)	21.38	\$3,629.58
	Total Avg: (48)	28.45		\$4,687.05		Total Avg: (50)	28.26	\$4,752.74		Total Avg: (46)	23.58	\$3,976.39
	Avg: Los Angeles (13)	36.04		\$5,769.73		Avg: Los Angeles (19)	47.75	\$7,674.75		Avg: Los Angeles (26)	40.88	\$6,724.59
	Avg: Sacramento (11)	66.20		\$10,299.34		Avg: Sacramento (11)	29.16	\$4,900.23		Avg: Sacramento (3)	38.33	\$6,508.67
Receipt of case to Hearing Date	Avg: San Diego (14)	33.91		\$5,424.91		Avg: San Diego (11)	45.14	\$7,442.50		Avg: San Diego (11)	33.57	\$5,547.34
	Avg: San Francisco (10)	29.32		\$4,659.68		Avg: San Francisco (9)	24.89	\$4,024.17		Avg: San Francisco (6)	36.71	\$6,129.71
	Total Avg: (48)	40.93		\$6,475.93		Total Avg: (50)	38.97	\$6,356.16		Total Avg: (46)	38.42	\$6,351.40



Hearing Date to when hearing matter is submitted to ALJ	Avg: Los Angeles (11)	Hours	Fees	Office	Hours	Fees	Office	Hours	Fees
	Avg: Sacramento (3)	7.25	\$1,232.50	Avg: Los Angeles (3)	4.50	\$765.00	Avg: Los Angeles (0)	0.00	\$0.00
	Avg: San Diego (2)	156.00	\$25,617.00	Avg: Sacramento (6)	4.19	\$711.88	Avg: Sacramento (0)	0.00	\$0.00
	Avg: San Francisco (2)	3.50	\$595.00	Avg: San Diego (3)	45.25	\$7,688.33	Avg: San Diego (0)	0.00	\$0.00
	Total Avg: (18)	32.98	\$5,469.04	Avg: San Francisco (2)	16.62	\$2,826.25	Avg: San Francisco (0)	0.00	\$0.00
Pleading sent to Agency to when hearing matter is submitted to ALJ	Avg: Los Angeles (11)	Hours	Fees	Office	Hours	Fees	Office	Hours	Fees
	Avg: Sacramento (3)	121.38	\$19,198.25	Avg: Los Angeles (3)	27.12	\$4,392.50	Avg: Los Angeles (0)	0.00	\$0.00
	Avg: San Diego (2)	134.00	\$21,826.00	Avg: Sacramento (6)	34.25	\$5,822.50	Avg: Sacramento (0)	0.00	\$0.00
	Avg: San Francisco (2)	13.12	\$2,231.25	Avg: San Diego (3)	57.17	\$9,704.17	Avg: San Diego (0)	0.00	\$0.00
	Total Avg: (18)	62.50	\$10,220.08	Avg: San Francisco (2)	30.62	\$5,187.50	Avg: San Francisco (0)	0.00	\$0.00
Receipt of Case to Default Decision Forwarded to Agency (w/Hearing Date)	Avg: Los Angeles (1)	Hours	Fees	Office	Hours	Fees	Office	Hours	Fees
	Avg: Sacramento (0)	0.00	\$0.00	Avg: Los Angeles (1)	11.12	\$1,878.75	Avg: Los Angeles (0)	0.00	\$0.00
	Avg: San Diego (1)	0.00	\$0.00	Avg: Sacramento (0)	0.00	\$0.00	Avg: Sacramento (1)	30.50	\$5,185.00
	Avg: San Francisco (1)	39.50	\$5,902.12	Avg: San Diego (2)	21.75	\$3,688.17	Avg: San Diego (0)	0.00	\$0.00
	Total Avg: (3)	16.92	\$2,598.62	Avg: San Francisco (0)	0.00	\$0.00	Avg: San Francisco (0)	0.00	\$0.00
Receipt of Case to Default Decision Forwarded to Agency (w/o Hearing Date)	Avg: Los Angeles (7)	Hours	Fees	Office	Hours	Fees	Office	Hours	Fees
	Avg: Sacramento (2)	8.00	\$1,335.00	Avg: Los Angeles (2)	16.17	\$2,583.08	Avg: Los Angeles (1)	15.75	\$0.00
	Avg: San Diego (0)	0.00	\$0.00	Avg: Sacramento (2)	9.75	\$1,657.50	Avg: Sacramento (0)	0.00	\$5,185.00
	Avg: San Francisco (2)	6.33	\$997.50	Avg: San Diego (4)	18.75	\$3,125.00	Avg: San Diego (1)	21.50	\$0.00
	Total Avg: (11)	18.00	\$2,488.29	Avg: San Francisco (1)	11.50	\$1,817.50	Avg: San Francisco (0)	0.00	\$0.00
Receipt of case to when a proposed Settlement is forwarded to Agency	Avg: Los Angeles (4)	Hours	Fees	Office	Hours	Fees	Office	Hours	Fees
	Avg: Sacramento (9)	26.31	\$4,114.19	Avg: Los Angeles (7)	65.25	\$10,761.43	Avg: Los Angeles (8)	74.25	\$12,346.47
	Avg: San Diego (10)	32.82	\$5,230.72	Avg: Sacramento (7)	72.43	\$11,878.29	Avg: Sacramento (1)	21.75	\$3,697.50
	Avg: San Francisco (9)	22.56	\$3,616.86	Avg: San Diego (11)	66.55	\$10,861.68	Avg: San Diego (8)	51.97	\$8,610.25
	Total Avg: (32)	33.53	\$5,252.12	Avg: San Francisco (7)	21.36	\$3,536.07	Avg: San Francisco (4)	41.44	\$6,697.50
				Total Avg: (32)	57.66	\$9,459.66	Total Avg: (21)	57.01	\$9,435.30



	Office		Office		Office		Office		Office	
	Hours	Fees	Hours	Fees	Hours	Fees	Hours	Fees	Hours	Fees
Receipt of case to when hearing matter is submitted to ALJ	Avg: Los Angeles (11)	37.18	\$5,980.59	Avg: Los Angeles (3)	44.75	\$6,872.08	Avg: Los Angeles (0)	0.00	\$0.00	
	Avg: Sacramento (3)	110.08	\$17,533.17	Avg: Sacramento (6)	34.15	\$5,805.50	Avg: Sacramento (0)	0.00	\$0.00	
	Avg: San Diego (2)	190.38	\$31,013.75	Avg: San Diego (3)	73.00	\$11,796.83	Avg: San Diego (0)	0.00	\$0.00	
	Avg: San Francisco (2)	14.88	\$2,528.75	Avg: San Francisco (2)	43.25	\$7,196.25	Avg: San Francisco (0)	0.00	\$0.00	
	Total Avg: (18)	63.88	\$10,303.94	Total Avg: (14)	46.96	\$7,648.21	Total Avg: (0)	0.00	\$0.00	
Receipt of case to Adjudication	Avg: Los Angeles (22)	34.26	\$5,236.56	Avg: Los Angeles (12)	55.15	\$8,954.42	Avg: Los Angeles (9)	67.75	\$11,251.31	
	Avg: Sacramento (13)	60.21	\$9,386.29	Avg: Sacramento (12)	58.10	\$9,624.21	Avg: Sacramento (2)	26.12	\$4,441.25	
	Avg: San Diego (12)	59.08	\$9,527.90	Avg: San Diego (20)	55.50	\$9,077.92	Avg: San Diego (9)	48.58	\$8,056.89	
	Avg: San Francisco (14)	23.62	\$3,743.29	Avg: San Francisco (10)	24.75	\$4,096.25	Avg: San Francisco (4)	41.44	\$6,697.50	
	Total Avg: (61)	42.23	\$6,622.41	Total Avg: (54)	50.31	\$8,249.34	Total Avg: (24)	52.71	\$8,726.93	



\* (#) Values represents the number of cases which this event has occurred.

Type of Admin Matter - Abbreviation translation  
Administrative

ACC = "Accusation"

AC/RV = "Accusation/Petition to Revoke"

CIT = "Citation"

ISO = "Interim Suspension Order"

REDU = "Petition for Reduction of Penalty"

REIN = "Petition for Reinstatement"

REVO = "Petition to Revoke Probation"

PHY = "Physical Exam"

PSYC = "Psychiatric Evaluation"

SOI = "Statement of Issues"

Non-Administrative

BD = "Bond"

CAS = "Claim Against Surety"

INV = "Investigation"

PC23 = "Penal Code Section 23"

RR = "Request for Reconsideration"

OTHER = "Admin Type not listed above"

Adjudicate

Settlement to Agency

Default Decision: Sent to Agency

Default Decision: Sent to Agency by AG

Default Decision: File Sent to Agency - DCA

Hearing Submitted

## CHAPTER \_\_\_\_\_

An act to amend Sections 13002, 13004, 13005, 13006, 18400, 19202, 19214, and 19214.5 of, to add Section 19212.5 to, and to repeal Section 13007 of, the Elections Code, relating to elections.

## LEGISLATIVE COUNSEL'S DIGEST

SB 541, Pavley. Elections: ballot cards and voting systems.

Existing law requires the Secretary of State to adopt regulations governing the manufacture, distribution, and inventory control of punchcards, and requiring the inspection of facilities that manufacture and store punchcards. Existing law requires the Secretary of State to approve a punchcard manufacturer prior to the manufacturer's providing of punchcards for use in California elections.

This bill would instead require the Secretary of State to adopt regulations governing the manufacture, finishing, quality standards, and inventory control of ballot cards, and requiring the biennial inspection of facilities that manufacture, finish, and store ballot cards. The bill would require that, no later than 5 days prior to inspection, the ballot card manufacturer or finisher disclose to the Secretary of State known flaws or defects in its current or past manufacturing or finishing process of ballot cards or manufactured or finished ballot cards that could adversely affect the casting or tallying of votes. The bill would require a manufacturer or finisher of ballot cards to notify the Secretary of State and affected local elections officials of defects that would adversely affect the casting or tallying of ballot cards that it discovers after approval by the Secretary of State within 2 business days of their discovery.

Existing law provides for a revolving fund that is continuously appropriated for the purpose of purchasing ballot paper and punchcards.

This bill would repeal these provisions.

Existing law provides that a person or corporation owning or being interested in a voting system or part of a voting system may apply to the Secretary of State to examine it and report on its accuracy and efficiency to fulfill its purpose. Existing law requires the Secretary of State to issue a report regarding whether, in his



or her opinion, the voting system or part of a voting system can be safely used.

This bill would instead require that a vendor of a voting system or part of a voting system include in its application to the Secretary of State notification of a known defect, fault, or failure of the hardware, software, or firmware of the voting system or a part of the voting system. The bill would also require the vendor to notify the Secretary of State of such a defect, fault, or failure discovered either after the vendor submitted his or her application but prior to the issuance of the Secretary of State's report or after the voting system or the part of a voting system is approved by the Secretary of State. The bill would also require the Secretary of State to notify and issue a report to the United States Election Assistance Commission regarding the defects, faults, or failures made known by the vendor at the initiation of, during, or after the approval process.

Existing law permits the Secretary of State to seek damages for an unauthorized change in hardware, software, or firmware in a certified or conditionally certified voting system.

This bill would also permit the Secretary of State to seek civil penalties for a known but undisclosed defect, fault, or failure in an approved or conditionally approved voting system and for a failure to comply with notification requirements concerning the defect, fault, or failure and to seek a refund of payment made for the voting system or part of the system.

*The people of the State of California do enact as follows:*

SECTION 1. Section 13002 of the Elections Code is amended to read:

13002. Ballot paper and ballot cards used by a jurisdiction holding an election pursuant to the laws of California shall be tinted and watermarked or overprinted with a design, to be furnished by the Secretary of State, so that the watermark or overprint is plainly discernible.

SEC. 2. Section 13004 of the Elections Code is amended to read:

13004. (a) The Secretary of State shall adopt regulations governing the manufacture, finishing, quality standards, distribution, and inventory control of ballot cards and requiring

the biennial inspection of the manufacturing, finishing, and storage facilities involving ballot cards. The Secretary of State shall also approve each ballot card manufacturer or finisher prior to a manufacturer or finisher providing ballot cards for use in California elections.

(b) Not later than five working days before the Secretary of State begins his or her initial inspection, the ballot card manufacturer or finisher shall disclose to the Secretary of State in writing any known flaw or defect in its current or past ballot card manufacturing or finishing process or manufactured or finished ballot cards that could adversely affect the casting or tallying of votes. Once approved by the Secretary of State, the ballot card manufacturer or finisher shall notify the Secretary of State and the affected local elections officials in writing within two business days after it discovers any flaw or defect in its ballot card manufacturing or finishing process or manufactured or finished ballot cards that could adversely affect the casting or tallying of votes.

SEC. 3. Section 13005 of the Elections Code is amended to read:

13005. (a) Before a user may purchase ballot cards, the user shall request in writing a release for a specific quantity of these ballot cards from the Secretary of State. If the request is in order, the Secretary of State shall issue a written release for that quantity to the manufacturer, or to the authorized warehouse, and to the user. The format, text, and use of the request and release shall be governed by regulations adopted by the Secretary of State.

(b) Nothing in this section prohibits a verbal request or verbal release, provided that this verbal request or verbal release is immediately confirmed in writing. The regulations shall expressly deny the manufacturing of ballot cards without a specific release.

SEC. 4. Section 13006 of the Elections Code is amended to read:

13006. A user, vendor, or manufacturer shall not warehouse for a subsequent election ballot paper or ballot cards furnished or released by the Secretary of State for a specific election without first obtaining authorization in writing from the Secretary of State for the storage. The authorization shall include the particular details of the amount to be stored so that audit controls may be established and maintained. Ballot paper or ballot cards not used in that

election, not authorized to be retained for subsequent elections, and not returned to the Secretary of State, shall be destroyed. A certificate of destruction setting forth the date of destruction and the amount of the ballot paper or ballot cards destroyed shall be transmitted to the Secretary of State.

SEC. 5. Section 13007 of the Elections Code is repealed.

SEC. 6. Section 18400 of the Elections Code is amended to read:

18400. A person who makes, uses, keeps, or furnishes to others, paper or cards watermarked or overprinted in imitation of ballot paper or ballot cards is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the state prison for 16 months, two or three years, or by both the fine and imprisonment.

SEC. 7. Section 19202 of the Elections Code is amended to read:

19202. (a) A person or corporation owning or being interested in a voting system or a part of a voting system may apply to the Secretary of State to examine it and report on its accuracy and efficiency to fulfill its purpose. As part of its application, the vendor of a voting system or the part of a voting system shall notify the Secretary of State in writing of any known defect, fault, or failure of the version of the hardware, software, or firmware of the voting system or a part of the voting system submitted. The Secretary of State shall not begin his or her examination until he or she receives a completed application from the vendor of the voting system or the part of the voting system. The vendor shall also notify the Secretary of State in writing of any defect, fault, or failure of the version of the hardware, software, or firmware of the voting system or a part of the voting system submitted that is discovered after the application is submitted and before the Secretary of State submits the report required by Section 19207. The Secretary of State shall complete his or her examination without undue delay.

(b) After receiving a vendor's written notification of a defect, fault, or failure, the Secretary of State shall notify the United States Election Assistance Commission or its successor entity of the problem as soon as practicable so as to present a reasonably complete description of the problem. The Secretary of State shall subsequently submit a report regarding the problem to the United

States Election Assistance Commission or its successor entity. The report shall include any report regarding the problem submitted to the Secretary of State by the vendor.

(c) The following definitions apply for purposes of this article:

(1) "Defect" means any flaw in the hardware or documentation of an approved or conditionally approved voting system that could result in a state of unfitness for use or nonconformance to the manufacturer's specifications.

(2) "Failure" means a discrepancy between the external results of the operation of any software or firmware in an approved or conditionally approved voting system and the manufacturer's product requirements for that software or firmware.

(3) "Fault" means a step, process, or data definition in any software or firmware in an approved or conditionally approved voting system that is incorrect under the manufacturer's program specification.

SEC. 8. Section 19212.5 is added to the Elections Code, to read:

19212.5. (a) When a voting system or a part of a voting system has been approved by the Secretary of State, the vendor shall notify the Secretary of State and all local elections officials who use the system in writing of any defect, fault, or failure of the hardware, software, or firmware of the voting system or a part of the voting system within 30 calendar days after the vendor learns of the defect, fault, or failure.

(b) Not later than January 8, 2010, the vendor of a voting system or a part of a voting system that has been approved by the Secretary of State prior to the effective date of this section shall notify the Secretary of State and all local elections officials who use the system in writing of any defect, fault, or failure of the hardware, software, or firmware of the voting system or a part of the voting system the vendor was aware of prior to January 1, 2010.

(c) After receiving a vendor's written notification of a defect, fault, or failure pursuant to subdivision (a) or (b), the Secretary of State shall notify the United States Election Assistance Commission or its successor entity of the problem as soon as practicable so as to present a reasonably complete description of the problem. The Secretary of State shall subsequently submit a report regarding the problem to the United States Election Assistance Commission or

its successor entity. The report shall include any report regarding the problem submitted to the Secretary of State by the vendor.

SEC. 9. Section 19214 of the Elections Code is amended to read:

19214. The Secretary of State may seek injunctive and administrative relief when a voting system or a part of a voting system has been compromised by the addition or deletion of hardware, software, or firmware without prior approval or is defective due to a known hardware, software, or firmware defect, fault, or failure that has not been disclosed pursuant to Section 19202 or 19212.5.

SEC. 10. Section 19214.5 of the Elections Code is amended to read:

19214.5. (a) The Secretary of State may seek all of the following relief for an unauthorized change in hardware, software, or firmware in a voting system approved or conditionally approved in California:

(1) A civil penalty from the offending party or parties, not to exceed ten thousand dollars (\$10,000) per violation. For purposes of this subdivision, each voting system component found to contain the unauthorized hardware, software, or firmware shall be considered a separate violation. A penalty imposed pursuant to this subdivision shall be apportioned 50 percent to the county in which the violation occurred, if applicable, and 50 percent to the Office of the Secretary of State for purposes of bolstering voting systems security efforts.

(2) Immediate commencement of proceedings to withdraw approval for the voting system in question.

(3) Prohibiting the manufacturer or vendor of a voting system from doing elections-related business in the state for one, two, or three years.

(4) Refund of all moneys paid by a local agency for a voting system or a part of a voting system that is compromised by an unauthorized change or modification, whether or not the voting system has been used in an election.

(5) Any other remedial actions authorized by law to prevent unjust enrichment of the offending party.

(b) (1) The Secretary of State may seek all of the following relief for a known but undisclosed defect, fault, or failure in a

voting system or part of a voting system approved or conditionally approved in California:

(A) Refund of all moneys paid by a local agency for a voting system or part of a voting system that is defective due to a known but undisclosed defect, fault, or failure, whether or not the voting system has been used in an election.

(B) A civil penalty from the offending party or parties, not to exceed fifty thousand dollars (\$50,000) per violation. For purposes of this subdivision, each defect, fault, or failure, but not each voting system found to contain that defect, fault, or failure, shall be considered a separate violation.

(C) In addition to any other penalties or remedies established by this section, the offending party or parties shall be liable in the amount of one thousand dollars (\$1,000) per day after the applicable deadline established in Section 19212.5 until the required disclosure is filed with the Secretary of State.

(2) A penalty imposed pursuant to subparagraph (B) or (C) of paragraph (1) shall be deposited in the General Fund.

(c) Prior to seeking any measure of relief under this section, the Secretary of State shall hold a public hearing. The Secretary of State shall give notice of the hearing in the manner prescribed by Section 6064 of the Government Code in a newspaper of general circulation published in Sacramento County. The Secretary of State also shall transmit written notice of the hearing, at least 30 days prior to the hearing, to each county elections official, the offending party or parties, a person that the Secretary of State believes will be interested in the hearing, and a person who requests, in writing, notice of the hearing.

(d) The decision of the Secretary of State, to seek relief under this section, shall be in writing and state his or her findings. The decision shall be open to public inspection.

**Board of Chiropractic Examiners  
Proposed Regulatory Language for Patient Records  
California Code of Regulations, Title 16, Division 4, Article 2**

**§318. Chiropractic Patient Records/Accountable Billings.**

(a) Chiropractic Patient Records. Each licensed chiropractor is required to maintain all active and inactive chiropractic patient records for five years from the date of the doctor's last treatment of the patient unless state or federal laws require a longer period of retention. Active chiropractic records are all chiropractic records of patients treated within the last 12 months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than 12 months since the date of the last patient treatment.

All chiropractic patient records shall be available to any representative of the Board upon presentation of patient's written consent or a valid legal order. Active chiropractic patient records shall be immediately available to any representative of the Board at the chiropractic office where the patient has been or is being treated. Inactive chiropractic patient records shall be available upon ten days notice to any representative of the Board. The location of said inactive records shall be reported immediately upon request.

Active and inactive chiropractic patient records must include all of the following:

- (1) Patient's full name, date of birth, and social security number (if available);
- (2) Patient gender, height and weight. An estimated height and weight is acceptable where the physical condition of the patient prevents actual measurement;
- (3) Patient history, complaint, diagnosis/analysis, and treatment must be signed by the primary treating doctor. Thereafter, any treatment rendered by any other doctor must be signed or initialed by said doctor;
- (4) Signature of patient;
- (5) Date of each and every patient visit;
- (6) All chiropractic X-rays, or evidence of the transfer of said X-rays.
- (7) Signed written informed consent as specified in Section 319.1.

(b) Accountable Billings. Each licensed chiropractor is required to ensure accurate billing of his or her chiropractic services whether or not such chiropractor is an employee of any business entity, whether corporate or individual, and whether or not billing for such services is accomplished by an individual or business entity other than the licensee. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in

any way compensated for such reimbursement by his employer, agent or any other individual or business entity responsible for such error. Failure by the licensee, within 30 days after discovery or notification of an error which resulted in an overbilling, to make full reimbursement constitutes unprofessional conduct.

Note: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii). Reference: Section 1000-4(b), Business and Professions Code of the (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii).



**Board of Chiropractic Examiners**  
**Proposed Regulatory Language for the Use of Lasers**  
**California Code of Regulations, Title 16, Division 4, Article 1**

**§ 302.5. Use of Laser**

(a) A duly licensed chiropractor and any person under their direct or indirect supervision shall:

(1) Not use any laser in the practice of chiropractic which has not been properly approved by and has a valid 510(k) filed with the United States Food and Drug Administration (FDA).

(2) Not market or advertise the use of a laser or use a laser for purposes other than neuromusculoskeletal treatment consistent with the product's FDA 510(k) filing.

(3) Inform the prospective patient of the contraindications to laser exposure both verbally and in writing prior to the initial use of any laser or course of treatments with any laser on a patient.

(4) Follow the manufacturer's specified guidelines for the safe use of laser.

(5) Comply with all state and federal laws governing the use of lasers in clinical settings.

(b) Nothing in this section shall be construed to authorize the use of a laser by a chiropractor outside of the chiropractic scope of practice. This includes, but is not limited to, laser ablation or surgical procedures, and laser treatment of allergies in cases where there is a known risk of anaphylactic reaction to the individual being treated.

(c) Any violation of this section may constitute unprofessional conduct and the licensee shall be subject to discipline by the Board.

NOTE: Authority cited: Sections 1000-4(b), 1000-4(e) and 1000-10(a), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii).

Reference: Sections 1000-4(b) and 1000-10(a), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii).

## TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

### Proposed Omnibus Consumer Protection Regulations

Modified text during the 45-day comment period: additions to the current language are shown as single underline and deletions are shown as single strikeout.

Modified text during the 1<sup>st</sup> 15-day comment period: There were no additions to the originally proposed language. Deletions to the originally proposed language are shown by double strikeout.

#### **§303. Filing of Addresses.**

(a) Each person holding a license to practice chiropractic in the State of California under any and all laws administered by the board shall file his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change.

(b) Each licensee shall file a current and accurate e-mail address with the board at its office in Sacramento and shall notify the board at its said office of any and all changes of the e-mail address, giving both the old and new e-mail address within 30 days of change.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii).

Reference: Section 1000-10(a), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii) and Section 136 of the Business and Professions Code.

#### **§304. Discipline by Another State Jurisdiction.**

~~The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.~~

(a) Any disciplinary action taken against a licensee by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States Military or a foreign government constitutes unprofessional conduct.

(b) Disciplinary action is defined as any revocation, suspension, probation, or reprimand of a professional license.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10(a), of the Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

Reference: Sections 1000-4(b) and 1000-10(a) of the (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii) and Sections 141 and 480 of the Business and Professions Code.

### **§308. Display of License.**

(a) Each person holding a license shall display a current active license in a conspicuous place in the licensee's principal office or primary place of practice.

(b) Any licensed Doctor of Chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed Doctor of Chiropractic must display in a conspicuous place a current active Satellite Office Certificate at the office for which it was issued.

(d) Notwithstanding subdivisions (b) and (c), any licensed doctor of chiropractic who is practicing in a mobile setting, such as at a health fair, a sporting event, or a patient's home, shall not be required to obtain and display a satellite certificate. However, any licensee practicing in such a mobile setting must at all times carry a current and active pocket license and shall make their pocket license available for inspection to a representative of the Board or any member of the public upon request.

(e) No licensed Doctor of Chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 104 of the Business and Professions Code.

Reference: Sections 1000-5, 1000-7 and 1000-12, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 104 of the Business and Professions Code.

### **§317.2. Gag Clauses in Civil Agreements Prohibited.**

(a) A licensee shall not include or permit to be included any of the following provisions in an agreement to settle a civil dispute arising from his or her practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.

(2) A provision that prohibits another party to the dispute from filing a complaint with the board.

(3) A provision that requires another party to the dispute to attempt to withdraw a complaint he or she has filed with the board.

(b) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Sections 1000-4(b), and 1000-10 (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 475 of the Business and Professions Code.

Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 475 of the Business and Professions Code.

### **§317.3. Licensee Reporting Requirements.**

(a) (1) A licensee shall report any of the following to the board:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(C) Any disciplinary action, as defined in section 304, taken by another licensing entity or authority of this state or of another state or an agency of the federal government.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, ~~the arrest,~~ the conviction, or the disciplinary action.

(b) Failure to make a report required by this section shall constitute unprofessional conduct.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

### **§321.1. Physical or Mental Examination of Applicants.**

(a) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to perform as a chiropractor safely because the applicant's ability to perform may be impaired due to mental illness or physical illness affecting competency, the board may order the applicant to be examined by one or more physicians and surgeons, chiropractors, or psychologists designated by the board. The board shall pay the full cost of such examination.

(b) An applicant's failure to comply with an order issued under subdivision (a) shall render his or her application incomplete.

(c) The report of the evaluation shall be made available to the applicant.

(d) If after receiving the evaluation report the Board determines that the applicant is unable to safely practice, the Board may deny the application.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

Reference: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

### **§390.7. Sexual Contact With Patient.**

Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, shall contain an order of revocation. A proposed decision shall not contain a stay of the revocation.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

### **§390.8. Required Actions Against Registered Sex Offenders.**

(a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, under federal law, or by a foreign government, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the individual is licensed under Chiropractic Initiative Act, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation nor place the license on probation.

(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender, provided, however, that nothing in this paragraph shall prohibit the Board from exercising its discretion to deny or discipline a license under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the healing arts board from exercising its discretion to deny or discipline a license under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to [insert effective date]. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

**Board of Chiropractic Examiners  
PROPOSED  
Meeting Schedule  
January – December 2012**

January 19, 2012 – Northern California

March 22, 2012 – Southern California

May 24, 2012 – Northern California

July 19, 2012 – Southern California

September 20, 2012 – Northern California

December 6, 2012 – Southern California

\* Dates and locations are subject to change



20. Hearings Re: Petition for Reinstatement of Revoked  
License

A. Waylon Moore  
B. Bruce Figoten